

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of K.M.O., R.B.O., and S.O., Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

KENNETH OAKLEY and LILY OAKLEY,

Respondents-Appellants.

UNPUBLISHED

January 14, 2003

No. 242036

Leelanau Circuit Court

Family Division

LC No. 01-005454-NA

Before: Meter, P.J., and Neff and Donofrio, JJ.

MEMORANDUM.

Respondents appeal as of right from the trial court order terminating their parental rights to the minor children under MCL 712A.19b(3)(c)(i) and (ii). We affirm.

The trial court did not clearly err in finding that the statutory grounds for termination were established by clear and convincing evidence. MCR 5.974(I); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). The evidence established that while respondent Kenneth Oakley made good progress as a result of counseling, respondent Lily Oakley was unable to significantly improve her parenting skills or to benefit from counseling. There was also evidence that respondent Lily Oakley was the primary caregiver for the children, and that, despite respondent Kenneth Oakley's efforts to become the children's primary caregiver, respondent Lily Oakley would continue to be responsible for the children by herself during Kenneth's workday. As noted by the trial court, "[T]his isn't a case where there are any bad people. I think everybody involved are [sic] good people, and it is simply a matter of capacity and ability,"

Furthermore, the evidence did not show that termination of respondents' parental rights was clearly not in the children's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). The evidence established that the children made improvements while in foster care and the trial court properly concluded, based on the evidence, that the respondents would be unable to care for the children in a way that would maintain those improvements.

Finally, respondents' argument that they received ineffective representation from their first court-appointed attorney is not supported by the existing record. Thus, the trial court did not err in terminating respondents' parental rights to the children.

Affirmed.

/s/ Patrick M. Meter

/s/ Janet T. Neff

/s/ Pat M. Donofrio